

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF NEW YORK

3

UNITED STATES OF AMERICA

4 vs.

NOTICE OF MOTION
23-mj-05095

5 FRANK NOESON,
6 Defendant.

7 **PLEASE TAKE NOTICE**, that FRANK NOESON, by his attorney,
8 MARK J. BYRNE, ESQ., upon the annexed Affirmation and all the proceedings
and papers heretofore had herein, moves for the following relief:

- 9 1. Extension of the Rule 48(b) date while parties await a plea date; and
10 2. Such further relief deemed just and proper by this Court.

11 Buffalo, New York
12 January 2, 2024

Respectfully Submitted,

13 /s/ Mark J. Byrne
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20 TO: AARON MANGO, AUSA
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1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF NEW YORK
3 UNITED STATES OF AMERICA

4 vs.

AFFIRMATION

5 FRANK NOESON,
6 Defendant.
7 _____

8 **MARK J. BYRNE, ESQ.**, an attorney at law, pursuant to 28 U.S.C.
9 §1746(2), declares the following under penalty of perjury:

10 1) I represent the Defendant, FRANK NOESON, in the above-entitled action
11 brought by the United States of America and as such am familiar with the facts
12 and circumstances of the case.

13 2) The Defendant appeared for an initial appearance on the Criminal
14 Complaint on April 28, 2023.

15 3) With the agreement of the parties, the Court scheduled to dismiss the
16 Complaint without prejudice pursuant to Rule 48(b) on July 28, 2023.

17 4) On July 25, 2023, your Affiant requested an adjournment of the Rule 48(b)
18 date, which the Court adjourned until August 30, 2023.

19 5) On August 28, 2023, your Affiant requested a second adjournment of the
20 Rule 48(b) date, which the Court adjourned until October 2, 2023.

21 6) On August 28, 2023, your Affiant requested a third adjournment of the
22 Rule 48(b) date, which the Court adjourned until October 2, 2023.

1 7) On September 28, 2023, your Affiant requested a fourth adjournment of the
2 Rule 48(b) date, which the Court adjourned until November 7, 2023.

3 8) On October 31, 2023, your Affiant requested a fifth adjournment of the
4 Rule 48(b) date, which the Court adjourned until December 12, 2023.

5 9) On December 8, 2023, your Affiant requested a sixth adjournment of the
6 Rule 48(b) date, which the Court adjourned until January 3, 2024.

7 10) In the interim, the parties have agreed to the Government's plea proposal.

8 11) Hon. Lawrence J. Vilardo was assigned to the matter but due to Hon.
9 Vilardo's calendar, the parties requested that this matter be referred to this Court
10 to facilitate the plea colloquy.

11 12) In order to accommodate the plea process, it is respectfully requested that
12 the Court extend the current 48(b) date until the scheduling of the Defendant's
13 plea.

14 13) AUSA Aaron Mango has no objection to the relief requested in this motion.

15 14) It is agreed that any extension granted by the Court is excludable under the
16 Speedy Trial Act and Federal Rules of Criminal Procedure as it is in the interests
17 of the Defendant and the public to seek a pre-indictment resolution.

1 **WHEREFORE**, the Defendant respectfully requests that the Court issue an
2 ORDER granting the foregoing requested relief.

3 Buffalo, New York
4 January 2, 2024

Respectfully Submitted,

5 /s/ Mark J. Byrne

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